

Senate Bill 103

By: Senator Hamrick of the 30th

A BILL TO BE ENTITLED
AN ACT

To amend Article 3 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, the "Georgia Condominium Act," so as to make provisions for failure of a declarant to carry out certain duties and provide in such case for transfer of control to the unit owners; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, the "Georgia Condominium Act," is amended by revising Code Section 44-3-76, relating to compliance with condominium instruments and rules and regulations, as follows:

"44-3-76.

The declarant, every ~~Every~~ unit owner, and all those entitled to occupy a unit shall comply with all lawful provisions of the condominium instruments. If the declarant does not comply with the condominium instruments, the declarant shall have surrendered control of the condominium association and the unit owners shall be allowed to elect a board to bring the association into compliance with the condominium instruments. In addition, any unit owner and all those entitled to occupy a unit shall comply with any reasonable rules or regulations adopted by the association pursuant to the condominium instruments which have been provided to the unit owners and with the lawful provisions of bylaws of the association. Any lack of such compliance shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the association or, in any proper case, by one or more aggrieved unit owners, on their own behalf or as a class action. If and to the extent provided in the condominium instruments, the association shall be empowered to impose and assess fines, and suspend temporarily voting rights and the right of use of certain of the common elements in order to enforce such compliance; provided, however, that no such suspension shall deny any unit owner or occupants access to the unit owned or occupied nor cause any

hazardous or unsanitary condition to exist. If the voting right of a unit owner has been suspended, then to the extent provided in the condominium instruments, that unit owner's vote shall not count for purposes of establishing a quorum or taking any action which requires a vote of the owners under this article or the condominium instruments. Notwithstanding any other provision of this Code section, to the extent provided in the condominium instruments, water, gas, electricity, heat, and air conditioning services being provided to a unit or unit owner by the association may be terminated for failure to pay assessments and other amounts due pursuant to subsection (a) of Code Section 44-3-109, subject to the suspension standards and notice requirements imposed on the institutional providers providing such services to the condominium development, only after a final judgment or final judgments in excess of a total of \$750.00 are obtained in favor of the association from a court of competent jurisdiction. The utility services shall not be required to be restored until the judgment or judgments and any reasonable utility provider charges or other reasonable costs incurred in suspending and restoring such services are paid in full. All common expenses for termination and restoration of any services pursuant to this Code section shall be an assessment and a lien against the unit."

SECTION 2.

Said article is further amended in Code Section 44-3-101, relating to control of the condominium association by declarant and loss of control, by revising paragraphs (3) and (4) of subsection (a) and adding a new paragraph (5) of subsection (a) as follows:

"(3) The expiration of seven years after the recording of the declaration in the case of an expandable condominium or the expiration of three years after the recording of the declaration in the case of any other type of condominium; ~~or~~

(4) The surrender by the declarant of the authority to appoint and remove members of the board of directors and officers of the association by an express amendment to the declaration which is executed and recorded by the declarant; or

(5) The failure of the declarant to appoint the board or to enforce any provision of this article."

SECTION 3.

Said article is further amended by revising Code Section 44-3-102, relating to association meetings, as follows:

"44-3-102.

Meetings of the members of the association shall be held in accordance with the provisions of the association's bylaws and in any event shall be called not less frequently than annually. If the delarant fails to call the initial annual meeting or any other annual meeting

62 while the declarant is in control, the declarant shall have surrendered control to the unit
63 owners; and the unit owners shall call the meeting and elect a board. A condominium
64 instrument recorded on or after July 1, 1990, shall also provide for the calling of a meeting
65 upon the written request of at least 15 percent of the unit owners. Notice shall be given to
66 each unit owner at least 21 days in advance of any annual or regularly scheduled meeting
67 and at least seven days in advance of any other meeting and shall state the time, place, and
68 purpose of such meeting. Such notice shall be delivered personally, sent by United States
69 mail, postage prepaid, statutory overnight delivery, or issued electronically in accordance
70 with Chapter 12 of Title 10, the 'Georgia Electronic Records and Signatures Act,' to all unit
71 owners of record at such address or addresses as any of them may have designated or, if
72 no other address has been so designated, at the address of their respective units. At the
73 annual meeting, comprehensive reports of the affairs, finances, and budget projections of
74 the association shall be made to the unit owners."

75 **SECTION 4.**

76 All laws and parts of laws in conflict with this Act are repealed.